

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1980/99

New Delhi this the 8th day of December, 1999.

Hon'ble Sh. S.P. Biswas, Member(A)

(A)

Shri Mukesh,  
S/o Sh. Murari Lal,  
R/o WZ-585, Nagpal Rai  
Padam Basti, .... Applicant  
New Delhi.

(through Sh. R.K. Sheoran, Advocate)

versus

1. Union of India through  
the Secretary,  
Govt. of India,  
Ministry of Agriculture,  
Dept. of Animal Husbandry  
& Dairying Krishi Bhawan,  
New Delhi.
2. The Quarantine Officer,  
Animal Quarantine & Certification  
Service Delhi-Gurgaon Road,  
Kapashera, New Delhi-37. .... Respondents

(through Sh. R.P. Aggarwal, Advocate)

ORDER(ORAL)

Applicant is aggrieved by the verbal orders issued by the respondents on 30.06.99 by which he has been asked not to come for work w.e.f. 01.07.99. It is the case of the applicant that after having been appointed in April 1996, he continued to work right upto November 1996. He was thereafter re-engaged on 20.01.97 and continued working upto 30.06.99, with occasional breaks.

2. It is also the case of the applicant that he has worked for more than 240 days in a calendar

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year starting from 01.01.98 to 31.12.98 which entitles him to get the temporary status in terms of the instructions of the Deptt. of Personnel & Training contained in their O.M. dated 10.09.93.

3. The learned counsel for the applicant would also submit that respondents have perpetuated an illegality by causing an intentional break in the service of the applicant so as to ensure that the applicant does not get covered for the benefits stipulated under the 10.09.93 Scheme as aforementioned.

3. The applicant has chosen to challenge the termination on the basis of the decisions of the Punjab & Haryana High Court in the case of Raghbir Singh Vs. The State of Haryana and another (1990(2) SLR 297). That was the case where the applicant was working as daily wage worker and his services were deliberately terminated to ensure that he may not complete 240 days of service. Whereas another person, reportedly junior to him, was engaged. Hon'ble High Court, after perusal of the records allowed the O.A. alongwith the order for re-engagement of the daily wager therein. The applicant also places reliance on the orders of this Tribunal in the case of Smt. Shaheeda Begum Vs. U.O.I. (1991(8) SLR 139). That was the case where the services of the casual labourer working with the All India Radio were terminated. The Tribunal held that the applicant was entitled to continue in service so long as persons with lesser length of service have been retained in a different unit but under the same respondents.

4. Shri R.P. Aggarwal, learned counsel for the respondents have controverted the claims of the applicant. It has been submitted that right from January 1998 to July 1998 he had work for 144 days and in the period from August to October 1998 he worked for another 77 days making a total of 221 days. The office under which the applicant had worked is open only for six days in a week and, therefore, the applicant should have put in a total of 240 days to claim the benefits under the Scheme of 10.09.93. The learned counsel for the respondents would also submit that due to non-availability of work, the applicant had been disengaged and that no other person, junior to the applicant, has been engaged superseding the superior claim of the applicant herein. The learned counsel would also submit at the Bar that the respondents would continue to consider re-engaging the services of the applicant if they have jobs available and that too in preference to outsiders and freshers.

5. The position of law is now well settled in respect of re-engagement/regularisation of such casual employees through a catena of judicial pronouncements of the Apex Court in the cases of Inderpal Yadav & Ors. Vs. U.O.I. & Ors. (1985(2) SCC 648 and State of U.P. and Ors. Vs. Ajay Kumar (JT 1997(3) SC 219).

(X)

6. A daily wager is not an official holding a civil post and cannot claim regularity of appointment as a matter of right. The applicant's claim for the relief in terms of Para 8(a) cannot be sustained in terms of law. However, the applicant has also prayed that he should be given the priority for re-engagement over the new comers and freshers. The 1d. counsel for the respondents has already conceded this point.

7. In the context of the position of law and the facts as aforementioned, the O.A. is disposed of with the following directions:-

(a) The applicant shall have the priority of re-engagement over freshers and new comers.

(b) The applicant should be re-engaged as soon as the jobs are available and in case he has completed more than 240 days, as alleged by the applicant, he shall also be considered for conferment of temporary status in terms of the instructions contained in O.M. dated 10.09.93.

(c) No costs.

  
(S.P. Biswas)  
Member(A)